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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Dunlap Towing Company	)	
	)	File No. EB-FIELDWR-13-00012192
Licensee of Station WYH6327	)	
La Conner, Washington	)	NOV No. V201432980003
	)	

**NOTICE OF VIOLATION**

**Released: December 19, 2013**

By the Acting District Director, Seattle Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),<sup>1</sup> to Dunlap Towing Company, licensee of ship station WYH6327, and registered owner of the vessel "Malolo" in Everett, Washington. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On November 12, 2013, the FCC Operations Center received a call from U. S. Coast Guard District 13 Joint Rescue Coordination Center (JRCC), requesting assistance in investigating and silencing false distress signals on INMARSAT-C, emanating from Mobile Telephone Number (MTN) 430329511, registered to the tugboat "Malolo." The distress signals indicated a location in Everett, Washington, based on transmitted GPS coordinates carried over the Global Maritime Distress and Safety Services (GMDSS) system via the vessel's INMARSAT radio. The USCG JRCC District 13 in Seattle, Washington, the USCG Pacific Area Command (PAC) in Alameda, California, and operational personnel at the Global Stratos company's INMARSAT Land Earth Station (LES) located in Burum, Netherlands, informed the Enforcement Bureau's Seattle Office that these false distress signals emanated twice on November 5, 2013, and once on both November 7 and November 11, 2013. A Seattle Office agent determined that the tugboat "Malolo" was in dry dock in Everett, Washington, at the Seacrest Marina, and was in violation of the following:

- a. 47 C.F.R. § 80.334: "A distress alert is false if it was transmitted without any indication that a mobile unit or person was in distress and required immediate assistance." The INMARSAT GMDSS distress signals were falsely activated while the tugboat "Malolo" was in dry dock at the Seacrest Marina in Everett, Washington.

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

- b. 47 C.F.R. § 80.334(b): “Transmitting a false distress alert is prohibited and may be subject to the provisions of part 1, subpart A of this chapter if that alert: . . . (b) Was not cancelled in accordance with 80.335.” USCG JRCC Seattle, Washington, the USCG PAC Alameda, California, and the Global Stratus LES INMARSAT facility in Burum, Netherlands, informed the Seattle Office that none of the “Malolo” INMARSAT false distress signals were cancelled.
- c. 47 C.F.R. § 80.334(d): “Transmitting a false distress alert is prohibited and may be subject to the provisions of part 1, subpart A of this chapter if that alert: (d) Was repeated.” The USCG JRCC Seattle, Washington, the USCG PAC Alameda, California, and the Global Stratus LES INMARSAT facility in Burum, Netherlands, informed the Seattle Office that false distress signals emanating from the tugboat “Malolo” were transmitted on two occasions on November 5, 2013, and once on both November 7 and November 11, 2013.
- d. 47 C.F.R. § 80.335(d): “If a distress alert is inadvertently transmitted, the following steps shall be taken to cancel the distress alert. . . . (d) INMARSAT ship earth station. Immediately notify the appropriate rescue coordination center that the alert is cancelled by sending a distress priority message by way of the same land earth station through which the false distress alert was sent. Provide ship name, call sign or registration number, and INMARSAT identity with the cancelled alert message.” The USCG JRCC Seattle, Washington, the USCG PAC Alameda, California, and the Global Stratus LES INMARSAT facility in Burum, Netherlands, informed the Seattle Office that false distress signals emanating from the tugboat “Malolo” were transmitted on two occasions on November 5, 2013, and once on both November 7 and November 11, 2013, none of which were cancelled via INMARSAT.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Dunlap Towing Company must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Dunlap Towing Company to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Dunlap Towing Company with personal knowledge of the representations provided in Dunlap Towing Company’s response, verifying the truth and accuracy of the

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

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information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Seattle Office  
11410 NE 122<sup>nd</sup> Way, Suite 312  
Kirkland, Washington 98034

6. This Notice shall be sent to Dunlap Towing Company at its address of record.

7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Leo Cirbo  
Acting District Director  
Seattle District Office  
Western Region  
Enforcement Bureau

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<sup>5</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).